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May 11, 2004

By Hand

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20554

Ex Parte Communication – IB Docket No. 02-34

Dear Ms. Dortch:

On May 10, 2004, Bryan McGuirk, Senior Vice President of SES AMERICOM, Inc.("SES AMERICOM"); Kimberly Baum of SES AMERICOM; and the undersigned, attorney for SES AMERICOM, met in person with the following staff members of the International Bureau: Donald Abelson, Thomas Tycz, John Martin, Richard Nunno, Douglas Webbink, Irene Wu. On the same day, Mr. McGuirk; Nancy Eskenazi, Vice President and Associate General Counsel of SES AMERICOM; and the undersigned met in person with Commissioner Michael J. Copps and Paul Margie, Office of Commissioner Copps; and with Bryan Tramont and Sheryl Wilkerson, Office of the Chairman. Ms. Eskenazi also met on the same day with Rod Porter of the International Bureau. Each of these meetings was for the purpose of discussing matters identified in the attached document, which was distributed at each meeting. We are filing an original and one copy of this letter and the attachment in the referenced docket.

Respectfully submitted,

Phillip L. Spector

Phillip L. Spector
Attorney for SES AMERICOM, Inc.

Attachment

cc (via e-mail, with attachment):
Hon. Michael J. Copps
Paul Margie
Bryan Tramont
Sheryl Wilkerson
Donald Abelson
Rod Porter
Thomas Tycz
John Martin
Richard Nunno
Douglas Webbink
Irene Wu
Qualex International

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SPACE STATION LICENSING:

THE "BUSINESS-FRIENDLY" BOND

IB DOCKET NO. 02-34
MAY 2004

I. CURRENT BOND APPROACH

- Ramps down as the satellite project ramps up:
  - From $5M at FCC licensing, down to $1.25M on commencement of construction, to zero at launch.
- Does not comport with public interest concern about orbital/spectrum warehousing:
  - If a project is abandoned just before launch, bond is at its lowest point, BUT
  - Harm to public interest is greatest (harm is a function of time).
- Discourages the satellite operator from pioneering new frequencies/orbital slots.

I. CURRENT BOND APPROACH (cont.)

- Ignores commercial realities:
  - Need for risk-sharing with major customers;
  - Customer can't commit until FCC license/slot/frequencies are assured.

- Is most expensive when the project is most uncertain:
  - The operator is not, at FCC licensing, weighing a $5M bond against a $200M satellite project.
  - Rather, the operator is weighing the bond cost against the very low expenditures at project inception, at a time when the project is at highest risk of cancellation.

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II. PROPOSED "BUSINESS-FRIENDLY" BOND

- Would ramp up as the satellite project ramps up:
  - *E.g.*, from $500,000-$1.25 million at FCC licensing to $5M at construction commencement.
- Would address the public interest concern re warehousing:
  - The satellite operator would pay more through the bond (if the satellite is not ultimately launched) the longer that orbital/spectrum resources are not available to others.
  - The incentives for the operator – to relinquish a license early if it will not be used – would thus be aligned with the public interest objectives.

II. PROPOSED "BUSINESS-FRIENDLY" BOND (cont.)

- Would address the FCC's concern about speculators:
  - A potential forfeiture of $500,000 - $1.25 million is significant even for the largest companies, and would certainly deter those involved solely for speculation.
  - Within one year, the bond would ramp up to a higher amount (*e.g.*, $2.5 million), thereby increasing speculator deterrence as the public interest harm (from warehousing) increases.
  - The Commission's new satellite licensing rules contain several other deterrents to speculation:
    - Limits on the number of applications;
    - Strict milestone requirements;
    - "Black marks" for those missing milestones ("3 strikes and you're out");
    - Substantial completeness requirement for applications.

II. PROPOSED "BUSINESS-FRIENDLY" BOND (cont.)

- Would more closely track the satellite operator's risk profile for a new project:
  - As the operator makes decisions to move forward at each stage, the project becomes more certain.
  - Bond exposure would be appropriately synchronized with the reduction in program risk.

- Would be proportional to capital expenditures on a project:
  - As the operator invests more project $$, it is willing also to invest in a higher bond.

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